App. F. IX-4.

Previous references. Treasure 16/7/46 1926. G. F.

File No. G. F. 7-26.

Serial Nos. 12 & 20.

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Two

P-10/E

Part B for September 1926.

SUBJECT

Requests orders on certain doubts felt in regard to interpretation of the powers of Attorney produced by Manager or partners of joint Stock Companies.

Secn 20. To The Comptroller to Government

No PL 2633 dated 23rd Sept 1926

Forwards for information and guidance Copy of the legal opinion in regard to the interpretation of the powers of Attorney.

AL 27/9

General and Revenue Secretariat

File No. 7 of 1926.

Serial No. 12

To file Neg.

From the Comptr
No 512 S.L. dated 16.8.26

Requests orders on certain doubts referred to in regard to interpretation of the powers of Attorney produced by managers or partners of joint stock companies

(1) Financial Secretary's order on the P no

(2) Please acknowledge

(3) Early disposal necessary. Ld. Secretary has to be consulted.

(4) A Off acknowledging an enclosed power of Attorney is sent for Approval. After issue [illegible] the file will be referred to Ld. Secretary for opinion

with the power of Attorney

18/8/26

(3) Please issue & then putup
HW 18/8/26

Yes -
B

note dictated. After issue of letter get the file typed

To comptroller
No GE 13978 19.8.26.

4 The opinion given by the Comptroller in para 3 of his letter appears to be correct. I do not think we need follow the practice in the Public Debt Office, Bombay or in any other office which is not enjoined on us by law, especially when the adoption of such a practice inconveniences all parties concerned. In this view of the answer to the questions raised in para 4 of the Comptrollers letter may be in the negative with re to (1) & in the affirmative with re to 2 and we may tell the Comptroller that in any particular case should he/

Note—Contn. Sheet

Serial No.

feel any doubt he may refer the matter to the Law Department thro us

B
21/8

7183)

~~A Power of attorney holder to Advocate~~ ~~has no power to conduct a suit, appeal or application~~ ~~or to take action in respect of it after it is~~

5 No general instruction can be given in regard to the interpretation of Powers of attorney being in a form or their application in respect of dealing with Govt. documents -

6 The examination of each document has to be carefully made. Generally it may be said that the powers of attorney held by Government should be construed strictly - Where there is any doubt in regard to the effect of an interpretation of any legal term, the Law Dept. may be consulted.

7 As regards the points raised in para 4 of the complainant's letter, I would answer both the points in the negative, unless the Bombay decision quoted in para 3 of the letter is accepted as Law here -

If my view in connection para 5 of the power of attorney is not sufficient to authorise to deal with Govt. documents, To L. D. Kindly for advice.

L
21-8-26
B

NOTE—Contn. Sheet

WD 01264—GPB—40,000—17-12-4

General and Revenue Secretariat

Rev 926. File No. 7 of 1926

Serial No.

8 I have carefully considered the questions referred by the Comptroller and I have come to the conclusion, but not without hesitation that both the points should be answered in the affirmative.

9 The Government Promissory Notes are within the definition of Promissory Note contained in Section 4 of the Negotiable Instruments Regulation and are also Negotiable Instruments within the meaning of Section 13 of the same Regulation. The general provisions of this Regulation would therefore apply to the Government Promissory notes also except to the extent to which special provision has been made by the Legislature in the Government Securities Regulation Regulation VIII of 1925, namely, in regard to indorsement, liability of endorsees and renewal. As therefore the Government Promissory Notes are only a species of promissory notes, mention of promissory notes in a power of attorney would seem to me to include these Notes also. (vide The Govt of Govt Securities' sec 2(a) of Govt Securities Regulation 8 of 1925 Govt Securities' means Appointment papers). I am not also certain whether specific words such as endorse or negotiate are alone necessary to give the attorney the power to endorse Government Promissory Notes. If on a construction of the power of attorney this power can be clearly made out, the absence of these words ought not in itself act as a bar to the recognition of this power in the donee of the power.

10

FINANCIAL SECRETARY
8 SEP. 1926
No.....

Final Letter with Comptr

4-9

4.9

If Dft reply as above may come to

Comptr

Draft-reply as above

NOTE—Contn. Sheet

General and Revenue Secretariat

678 4

WD 01264—GPB—40,000—17-12-25

[App. F. III—2

S 7 File No. 7

of 192 7..

Serial No

Dft put up for approval
16/9/26 16/9/26.

B 17/9

HBS) 2nd member's 17/9

Noted 19-9-26. B

Done B 21/9

FINANCIAL SECRETARY
17 SEP. 1926
No.....

OFFICE OF THE SECOND MEMBER OF COUNCIL
18 SEP. 1926
No. 2173

FINANCIAL SECRETARY
21 SEP. 1926
No.....

20 Do the compln with order w 8/12 No JE 2633 dated 23.9.26.
Forwards for information and guidance copy of the legal opinion in regard to the interpretation of the powers of Attorney

B 23/9/26

23/9/26

NOTE—Contn. Sheet

0885

WD 0663—GPE—6000—11-9-25

C. O. 42. Gl.

OFFICE OF THE COMPTROLLER TO THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

No. 512/SL..

Bangalore, Dated... .....14th.....August..... .....192 6.

Encls: one power of Attorney.

From

S. SHAMANNA, ~~XXXXXXXXXXXXXXXXXX~~, Esq., B. A.,
Offg. *Comptroller to the Government of His Highness the Maharaja of Mysore, Bangalore.*

678
1926 — 1927
Section. G-P
File No. 7; 26

To

B. Sreenivasa Iyengar, Esq., B.A., B.L., ~~XXXXXXXXXXXXXXXXXX~~
Secretary to the Government of Mysore,
Financial Department, Bangalore.

GEN. & REV. SECTT. BR. 16 AUG. 1926 G. D. SECTION.

17 AUG 1926

FINANCIAL SECRETARY 17 AUG. 1926

Sir,

I have the honour to request orders on certain doubts felt in regard to the interpretation of Powers of Attorney produced by Managers or Partners of Joint Stock Companies, etc., which documents are received in fairly large numbers by the State Loan Section of this Office.

2 In some of them, Power is given to deal with, dispose of or sell securities without expressly mentioning the power to "endorse or negotiate" them. In others, power is given to draw or negotiate, bills, securities etc., without specifically mentioning the expression, Government Securities or Pro-notes. I learn from the Accountant sent on deputation to Public Debt Office, Bombay, that the Public Debt Office, Madras, is said to be of opinion, that as Courts construe the words used in a power of attorney very narrowly, the word "endorse" must be specifically used therein; the term "dispose of" being considered insufficient, and that there must be a distinct authorisation to deal in Government Securities, and the expression "Promissory notes" does not cover all Government Securities; but that, if the term "negotiable instruments" be used in a power of attorney, it must be held to cover the Government Securities also. It is also stated by him that the Public Debt Office, Bombay acting on the authority of the opinion of the Government Soliciter, ~~in declining to~~ held that the terms "All moneys and Securities" occurring in a power of attorney granted by the Nippon Bank, ~~included~~ Government Securities

3 In this connection I invite your kind attention to paras 2 & 3 of the Negotiable Instruments Act by K. Bhashyam, and K.Y. Adiga, Second Edition, and also to 24 Bom.65,71, where the Bombay High Court seem to have held that "Promissory Notes" include Government Promissory Notes also.

4 I request therefore, to be informed whether in dealing with these documents, this office, should insist on (1) the term "Endorse" or "Negotiate" being specifically mentioned in all Powers of Attorney empowering the holders to deal in Government Securities and whether (2) the term "Any promissory note" occurring in any Power of Attorney may be held to include Government Promissory Notes also.

5 I send herewith for reference Power of Attorney granted in favour of Mr. James, Nuttall by Binny & Co., Madras, wherein para 5 power to draw and accept any promissory notes, bill of exchange, etc., is given.

6. The receipt of the power in question may kindly be acknowledged and it may be returned as early as possible.

I have the honour to be,

Sir,

Your most obedient servant,

S.S.

Comptroller.

B.V.V.

APP. F. VI. Gl.]

SUBJECT.....

.....

.....

Section 97

File No. 7-26.

Serial No. 20.

No. H 2633 mill

power of attorney.

Diary No. of letter replied to.....678.....

General and Revenue Secretariat

( )

the *192*

Date of issue.....23.9.26.....

Signed by.....W.B.S.B.....

To

.....The comptroller.....

Sir,

With reference to your letter no 512. S.L. dated 16th Augt 1926 requesting orders on certain doubts felt in the matter of the interpretation of the powers of Attorney produced by mangers or partners of joint Stock companies I am directed to ~~state~~ ~~as follows~~

Govt promissory notes are within the definition of promissory note contained in Section 4 of the Negotiable Instrumts Regulation and are also Negotiable Instruments within the meaning of

over

Communication from Finance Dept regarding grant of

List of enclosures.....

Paras 6-9-10.

Copied by.....

Examined by.....

Section of 13 of the same Regulation and ~~that~~ The general provisions of this Regulation would, therefore, apply to the Govt promissory notes also except to the extent to which special provision has ~~been~~ made by the legislature in the Govt Sec Regulation VIII of 1925, in regard to endorsement, liability of endorsees and renewal. ~~and that~~ As, therefore, the Govt promissory notes are only a species of promissory notes, mention of promissory notes in a power of Attorney would include Govt promissory notes also. (Vide dep. of Govt Secretary - Sec 2(9) of Regn VIII of 1925.)

2. In regard to the other point viz regarding specific mention of the ~~words~~ such as endorse or negotiate in the power of Attorney, I am to state that such words ~~are~~ are alone necessary ~~are not always necessary~~ to give the Attorney the power to endorse Govt Pro. notes. ~~and that Govt consider~~ If on a construction of the power of Attorney this power can be clearly made out the absence of these words ought not ~~in itself~~ itself act as a bar to the recognition of this power in the scope of the power.

The power of Attorney sent with your letter is herewith returned. ✓

HMK 16/26.

B. Srinivasa Iyengar, Esq., B.A., B.L.,

S. Shamanna, Esq., B.A.,
Comptroller, Mysore Government.

With reference to your letter No.512/S.L. dated 16th August 1926 requesting orders on certain doubts felt in the matter of the interpretation of the powers of Attorney produced by Managers or Partners of Joint Stock Companies etc., I am directed to communicate for your information and guidance the following legal opinion.

"I have carefully considered the questions referred to by the Comptroller and I have come to the conclusion, but not without hesitation that both the points should be answered in the affirmative.

The Government Promissory Notes are within the definition of Promissory Note contained in Section 4 of the Negotiable Instruments Regulation and are also Negotiable Instruments within the meaning of Section 13 of the same Regulation. The general provisions of this Regulation would therefore apply to the Government Promissory Notes also except to the extent to which special provision has been made by the Legislature in the Government Securities Regulation VIII of 1925, namely in regard to indorsement, liability of endorsees and renewal. As therefore the Government Promissory Notes are only a species of promissory notes, mention of promissory notes in a power of attorney would seem to me to include these Notes also. (Vide

the definition of 'Government Security' Section 2 (a) of Government Securities Regulation VIII of 1925 - Government Security ~~rity~~ means promissory notes).

I am not also certain whether specific words such as endorse or negotiate are alone necessary to give the attorney the power to endorse Government Promissory Notes. If on a construction of the power of attorney this power can be clearly made out, the absence of these words ought not in itself act as a bar to the recognition of this power in the donee of the power."

2. The power of Attorney received with your letter is herewith returned.

I have the honor to be,
Sir,
Your most obedient servant,

Secretary to Government,
Financial Department.